

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

June 13, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 13, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Kimberly Leanhart

Members Absent:

Sharon Bond, Secretary
Brandt Ford
Yani Vozos

Staff Members Present:

Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Heather Pollock, Planner I
Zach Schwager, Planner I
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

NOTE: During the opening statement, Chair Howard advised everyone that there would not be a quorum of Board Members at today's meeting. Therefore, the public hearing shall commence with a hearing examiner. However, as a quorum is necessary to transact any official business, final decisions related to any of the cases shall not be made at today's meeting. Decisions will be deferred to a later meeting where a quorum is present.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

22-MCUP-0001

Request: Modified Conditional Use Permit hearing in response to complaints related to excessive noise and explosions from the River Metals scrap metal processing facility

Project Name: River Metals Recycling

Location: 2110 Metal Ln, 2045 River Rd, 2114 Metal Ln, 2300 Metal Ln, 2255 Metal Ln, and 2601 River Green Cir.

Owner: River Metals Recycling, Inc.

Applicant: Planning Director

Jurisdiction: Louisville Metro

Council District: 4 – Jecorey Arthur

Case Manager: Chris French, AICP, Planning and Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

00:07:39 Chris French stated the Board continued this case to today's date for an update from the representative of River Metals regarding the study they were putting together with a consultant. Mr. French stated that Nick Nicholson was present to provide an update to the Board (see recording for detailed presentation).

Testimony of River Metals representative:

00:08:26 Nick Nicholson (500 W. Jefferson, Louisville, KY 40205) provided an update on the status of the seismic study. Mr. Nicholson stated they hired a local firm, Vibra-tech, to install five seismographs in order to give the Board the requested data. Mr. Nicholson stated Vibra-tech would like to have thirty events take place in order to make sure there is a statistically significant data set to be able to have an accurate scientific study, and that collection is going to take some time. Mr. Nicholson responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

June 13, 2022

PUBLIC HEARING

22-MCUP-0001

00:13:33 Laura Ferguson, Legal Counsel, stated the Board could continue the case to another date. Chair Howard said that staff could state the date because she does not have the calendar. Chris French stated September 12th would be three months from now (see recording for detailed presentation).

00:14:26 Chair Howard stated she was going to call those who signed up in opposition. However, we really didn't hear much, and we can't accept testimony, but she would allow questions (see recording for detailed presentation).

The following asked questions of owner's representative:

Kim Swenson, 13 Artic Springs, Jeffersonville, IN 47130

Kaye Thompson, 42 Warren Road, Louisville, KY 40206

Anthony Ray, 44 Warren Road, Louisville, KY 40206

David Vislisel, 45 Warren Road, Louisville, KY 40206

00:15:06 Kim Swenson asked for clarification that the seismographs were installed on River Metals Recycling property, and they will monitor until there are thirty events. Chair Howard said that is correct (see recording for detailed presentation).

00:16:23 Kaye Thompson asked where are the seismographs and are there explanations from River Metals for the reason for decreased activity recently. Ms. Thompson asked if the business they've employed truly an objective party or is there any kind of connection between them and River Metals. Chair Howard asked Mr. Nicholson to respond to Ms. Swenson's and Ms. Thompson's questions (see recording for detailed presentation).

00:17:30 Nick Nicholson stated there are five seismographs installed on River Metals' site, and as far as the decreased events, it comes down to being the summer. Mr. Nicholson stated there always tends to be less events in the summer. Mr. Nicholson stated Vibra-tech has no connection whatsoever to River Metals Recycling, it is a true independent body and a nation-wide expert in this field (see recording for detailed presentation).

00:19:09 Anthony Ray stated his question was answered, where the seismographs were being placed. Mr. Ray stated they thought they would be placed closer to their dwellings for a more accurate reading and that's what they would request. Mr. Ray stated the events have decreased over the last couple of months. Mr. Ray responded to a question from Vice Chair Buttorff regarding the frequency of events (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

22-MCUP-0001

00:21:11 David Vislisel stated they want to thank River Metals Recycling for doing what they're doing to address this problem. Mr. Vislisel discussed the frequency of events and asked what causes these cycles, and have they addressed that in any way. Mr. Vislisel asked if there was any way to corroborate the readings on the scale, looking for objectivity. Mr. Vislisel stated engineers don't believe that it's vibrations that travel through the ground but rather sound waves and asked if they are going to pursue that (see recording for detailed presentation).

00:25:17 Nick Nicholson stated these are independent experts that are reporting scientific data. Mr. Nicholson stated as far as the comment about sound waves, it is air over pressure, is what we talked about last time. Mr. Nicholson stated the experts determine where the seismographs need to be in order to get the information the Board was requesting (see recording for detailed presentation).

00:28:24 Chair Howard stated we don't have any decisions to make other than the Board wants Mr. Nicholson to come back on September 12th (see recording for detailed presentation).

NOTE: Due to lack of quorum, no action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0024

Request:	Variance to allow an accessory structure to encroach into the side yard setback
Project Name:	Highland Avenue Variance
Location:	1308 Highland Avenue
Owner/Applicant:	Gary Hibbeln & Stacey Mefford
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Heather Pollock, Planner I

00:28:43 **Note:** Chair Howard called Item #3 on today’s agenda at this time. Please see pages 6-7.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:04:09 Heather Pollock requested to continue this case due to a noticing issue. Ms. Pollock stated she has chosen a date. However, the case will need to be renoticed for the new date (see recording for detailed presentation).

NOTE: Due to lack of quorum, no action was taken.

01:04:38 Chair Howard called Item #5 on today’s agenda. Please see page 10.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0053

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Floyd Street Short Term Rental
Location:	1338 S. Floyd Street
Owner:	CRE Development, LLC
Applicant:	Matthew Chaudoin
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Heather Pollock, Planner I

Note: This case was called out of order, prior to Item #2 on today's agenda.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

00:30:04 Heather Pollock presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matthew Chaudoin, 4104 Gloucester Road, Louisville, KY 40207
Dr. Susan Davis, 1333 S. Brook St., Louisville, KY 40208

Summary of testimony of those in favor:

00:32:43 Matthew Chaudoin spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:49:31 Dr. Susan Davis spoke in favor of the request (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0053

The following spoke in opposition of the request:

Helga Ulrich, 112 E. Ormsby Ave., Louisville, KY 40203

Summary of testimony of those in opposition:

00:57:36 Helga Ulrich spoke in opposition of the request. Ms. Ulrich stated opposition due to the 600 foot rule and the availability of affordable housing (see recording for detailed presentation).

REBUTTAL:

00:58:28 Matthew Chaudoin spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

NOTE: Due to lack of quorum, no action was taken.

01:03:38 Item #2 on today's agenda was called at this time. Please see page 5.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0080

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	River Road Short Term Rental
Location:	7071 River Road
Owner:	Deborah Gill
Applicant:	Deborah Gill
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Heather Pollock, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:05:50 Heather Pollock presented the case and showed a slideshow presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Deborah Gill, 1905 Round Ridge Road, Louisville, KY 40207
Steve Gill, 1905 Round Ridge Road, Louisville, KY 40207

Summary of testimony of those in favor:

01:09:27 Deborah and Steve Gill spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0080

NOTE: Due to lack of quorum, no action was taken.

01:17:28 Chair Howard called Item #6 on today's agenda. Please see page 11.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0083

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Henry Firpo Street Short Term Rental
Location:	721 & 723 Henry Firpo Street
Owner:	ParsII On Firpo, LLC
Applicant:	Conner Parsons
Jurisdiction:	Louisville Metro
Council District:	4– Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:05:05 Heather Pollock stated this case will be continued to a date uncertain (see staff report and recording for detailed presentation).

NOTE: Due to lack of quorum, no action was taken.

01:05:22 Chair Howard called Item #4 on today's agenda. Please see page 8.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0090

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Fowler Short Term Rental
Location:	725 Shelby Parkway
Owner/Applicant:	Matthew Fowler
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Chris French, AICP, Planning & Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:17:53 Chris French presented the case and showed a slideshow presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matthew Fowler, 1709 Payne Street, Louisville, KY 40206
Eric Cowley, 725 E. Oak St., Louisville, KY 40203

Summary of testimony of those in favor:

01:20:33 Matthew Fowler spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:24:16 Eric Cowley spoke in favor of the request (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0090

The following spoke in opposition of the request:

Helga Ulrich, 112 E. Ormsby Ave., Louisville, KY 40203

Summary of testimony of those in opposition:

01:26:44 Helga Ulrich spoke in opposition of the request. Ms. Ulrich stated opposition due to the 600 foot rule and the availability of affordable housing. Ms. Ulrich responded to questions from the Board Members (see recording for detailed presentation).

01:30:48 Chris French responded to a question from Chair Howard (see recording for detailed presentation).

01:31:41 Ms. Ulrich continued her testimony in opposition (see recording for detailed presentation).

01:35:46 Chris French stated he had not received any information from Ms. Ulrich. Ms. Ulrich stated she had sent an email to Mr. French. Mr. French explained to Ms. Ulrich that if properties have short term rental registrations, they have provided sufficient evidence to staff to be registered as the primary residence of the host and therefore they do not need a Conditional Use Permit (see recording for detailed presentation).

01:37:20 Laura Ferguson, Legal Counsel, stated the properties on Ms. Ulrich's list are probably falling into one of two buckets; one is if they are operating and should have gotten a CUP then that's a matter for Zoning Enforcement to investigate. Attorney Ferguson stated the 600 foot rule is measured to any property in which another approved short term rental is required to have a conditional use permit, so if it's owner occupied, they may not need a conditional use permit. Attorney Ferguson stated if it's multi-family, commercial, or some other type zoning it may have, legally, a short term rental that doesn't fall within the criteria of the 600 foot waiver rule. Attorney Ferguson stated you may have more short term rentals, but it wouldn't be included in the calculation of the 600 foot waiver (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0090

REBUTTAL:

01:39:13 Matthew Fowler spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

NOTE: Due to lack of quorum, no action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0099

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Milton Street Short Term Rental
Location:	1237 Milton Street
Owner:	Dafna Maldonado Revocable Trust
Applicant:	Dafna Maldonado
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Zach Schwager, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:42:22 Zach Schwager presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dafna Maldonado, 531 Esplanade, Redondo Beach, CA 90277

Summary of testimony of those in favor:

01:45:19 Dafna Maldonado spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

NOTE: Due to lack of quorum, no action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0106

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Southcrest Drive Short Term Rental
Location:	4624 Southcrest Drive
Owner:	Dorothy Krause & Earl Newton
Applicant:	Dottie Krause
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Zach Schwager, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

01:51:36 Zach Schwager presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dottie Krause, 4624 Southcrest Drive, Louisville, KY 40215

Summary of testimony of those in favor:

01:54:06 Dottie Krause spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0106

The following spoke in opposition of the request:

No one spoke.

NOTE: Due to lack of quorum, no action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
June 13, 2022

02:03:11 Attorney Ferguson discussed the process for taking action on agenda items that were heard today at the next meeting on June 27, 2022. Chris French reminded the Board Members there will be a Special Meeting on 6/27 from 10:00 a.m. to 12:00 p.m. to take action on the cases heard today (see recording for detailed presentation).

The meeting adjourned at approximately 3:10 p.m.

Chair

Secretary